

Message Text

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E.O. 11652: GDS

TAGS: MASS, UY

SUBJ: GAO SITE SURVEY - QUESTIONS ON SECTION 112 FAA

REFS: (A) USCINCSO/SC-O MSG (C) 172218Z OCT 74

B) USMILGP URUGUAY MSG (C) 231727Z SEP 74

(C) USMILGP URUGUAY MSG 271624Z FEB 74

1. REPEATED BELOW FOR YOUR INFORMATION IS A MESSAGE SENT TO USCINCSO BY MILGROUP URUGUAY ON OCTOBER 18. ALTHOUGH DEPARTMENT DOES NOT HAVE REFTELS TO WHICH REFERENCE IS MADE, THE EMBASSY BELIEVES THAT THE MESSAGE QUOTED BELOW STANDS ON ITS OWN AND THAT DEPARTMENT SHOULD BE AWARE OF ITS CONTENTS.

"1. REF A IS YOUR MESSAGE STATING POTENTIAL JEOPARDY OF URUGUAYAN ARMY FALLING UNDER SEC 112 FAA PROHIBITIONS. REF B IS OUR MESSAGE WHICH ADDRESSED SAME SUBJECT WITH RATIONALE APPLICABLE TO OUR FINDING IN REF C. ADDRESSING SPECIFIC QUESTIONS CONTAINED IN REF A, FOLLOWING ANSWERS REPRESENT COUNTRY TEAM POSITION.

A. CAN SPECIFIC UNITS BE SINGLED OUT AS HAVING CIVILIAN POLICE FUNCTIONS?

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(1) PREFECTURA MARITIMA IS A COAST GUARD TYPE

UNIT WHICH REPORTS TO CNO OF URNAV BUT IS A COMPLETELY SEPARATE FORCE FROM NAVY WITH ITS OWN OPERATING FUNDS. IT DOES HAVE CIVILIAN LAW ENFORCEMENT FUNCTIONS ON THE CONTIGUOUS WATER AND 150 METERS INLAND FROM HIGH TIDE MARK. NO MAP SUPPORT PROVIDED SINCE DEC 73, EITHER TRAINING OR MATERIAL.

(2) BOTH AIR FORCE SECURITY UNIT AND THE NAVY FUSILLEROS PERFORM LAW ENFORCEMENT FUNCTIONS WHICH ONCE WERE UNDER CIVILIAN JURISDICTION BUT WHICH IN URUGUAY HAVE LEGALLY BEEN TRANSFERRED FROM THE CIVILIAN CODE TO THE MILITARY CODE OF JUSTICE. THEREFORE, AND WHILE THEIR PERFORMANCE OF THESE FUNCTIONS IS "ON-GOING", IT IS THE COUNTRY TEAM'S POSITION THAT THIS LEGAL CHANGE REMOVES SUCH FUNCTIONS FROM THE AREA OF "CIVILIAN LAW ENFORCEMENT" WITHIN THE MEANING OF SEC 112. NEITHER UNIT HAS RECEIVED ANY MAP SUPPORT IN EITHER MATERIAL OR TRAINING LINES SINCE DEC 73.

B. DOES URUGUAYAN LAW CHARGE ALL ARMY UNITS TO PERFORM POLICE FUNCTIONS AS DEFINED BY REF B? THE ARMY AS A WHOLE AS WITH THE ABOVE UNITS, NOW HAS RESPONSIBILITY FOR CERTAIN FUNCTIONS WHICH WERE ONCE UNDER CIVILIAN JURISDICTION BUT NO LONGER ARE. INTERMITTENTLY, AND FROM TIME TO TIME, DIFFERENT ARMY UNITS MAY BE INVOLVED WITH SUCH FUNCTIONS. WE CANNOT IDENTIFY ARMY UNITS WHICH ARE CHARGED WITH SUCH FUNCTIONS ON AN "ON GOING" BASIS. IN VIEW OF THE FOREGOING, ALL ARMY UNITS HAVE RECEIVED A RELATIVE SHARE OF MAP SUPPORT.

C. DO PROVISIONS EXIST BY WHICH THE HC ASSURES THE MILGP THAT INDIVIDUALS WHO RECEIVE MAP SUPPORTED TRAINING WILL NOT BE ASSIGNED TO LAW ENFORCEMENT DUTIES? NO SUCH AGREEMENT NOW EXISTS AND BASED UPON ABOVE REASONING WOULD NOT BE NECESSARY. WE WISH TO RAISE THE QUESTION, HOWEVER, WHETHER SUCH AGREEMENT SHOULD BE SOUGHT TO PRECLUDE ANY MILITARY OFFICER WHO RECEIVES MAP SUPPORTED TRAINING FROM BEING ASSIGNED AS CHIEF OF POLICE. IN MOST JURISDICTIONS IN URUGUAY TODAY, MILITARY OFFICERS HAVE BEEN ASSIGNED AS CHIEFS OF REGULAR POLICE FORCES. THEREFORE, SUCH OFFICERS
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INDIVIDUALLY, AS DISTINCT FROM MILITARY FORCES OR UNITS AS A WHOLE, ARE BY VIRTUE OF THEIR ASSIGNMENT TO POLICE UNITS, ENGAGED IN ON GOING CIVIL LAW ENFORCEMENT."

2. ON OCTOBER 22 THE MILGP, IN A FURTHER MESSAGE TO USCINCSO, MADE REFERENCE TO THE CABLE QUOTED ABOVE AND CLARIFIED THE ROLE OF THE PREFECTURA MARITIMA AS FOLLOWS:
" THE REFERENCED MSG DESCRIBED THE PREFECURA MARITIMA

AS A COAST GUARD-TYPE UNIT HAVING CIVILIAN LAW ENFORCEMENT FUNCTIONS. IT TRADITIONALLY HAS HAD RESPONSIBILITIES SUCH AS BATHERS' SAFETY IN BEACH AREAS, CONTROLLING SMALL BOAT TRAFFIC, ETC., AND STILL DOES. VIOLATORS UNDER THE FOREGOING HAVE AND DO COME UNDER CIVILIAN COURT JURISDICTION. IN ADDITION, HOWEVER, THE PREFECTURA HAS THE RESPONSIBILITY FOR FUNCTIONS WHICH WERE ONCE UNDER CIVILIAN JURISDICTION BUT FALL UNDER THE MILITARY CODE AS A RESULT OF THE NATIONAL SECURITY ACT OF 1972. FOR EXAMPLE, IF THE PREFECTURA WERE TO INTERCEPT A SMALL BOAT WITH SUBVERSIVES INFILTRATING URUGUAY FROM ARGENTINA, IT WOULD ARREST THEM AND TURN THEM OVER TO A MILITARY TRIBUNAL. THUS, THE PREFECTURA MARITIMA HAS BOTH CIVILIAN AND MILITARY LAW ENFORCEMENT FUNCTIONS, INCLUDING IN THE LATTER CATEGORY SOME WHICH WERE ONCE CIVILIAN BUT NO LONGER ARE.

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